



WASHOE COUNTY

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CM/ACM _____
Finance DN
DA _____ ✓
Risk Mgt. DE
HR N/A
Grant Mgt. GE

STAFF REPORT

BOARD MEETING DATE: January 27, 2015

DATE: December 30, 2014
TO: Board of County Commissioners
FROM: Kimble O. Corbridge, P.E., CFM, Engineering and Capital Projects,
Community Services Department, 328-2054, kcorbridge@washoecounty.us
THROUGH: Dwayne Smith, P.E., Division Director, Engineering and Capital Projects,
Community Services Department, 328-2043, desmith@washoecounty.us
SUBJECT: Recommendation to accept Amendment #1 to a Grant Award from the Nevada Division of State Lands for the East Incline Village Phase I Water Quality Improvement Project [in the amount of \$750,000] (for a total of \$1,500,000 from NDSL with the matching funds of \$1,500,000 funded through a U.S. Forest Service Grant) retroactively for the period of November 19, 2013 through March 31, 2017; and if accepted, authorize the Director of Community Services Department to execute the Funding Agreement; and direct the Comptroller's Office to make the necessary budget adjustments. (Commission District 1.)

SUMMARY

Washoe County has participated in the Tahoe Regional Planning Agency (TRPA) Environmental Improvement Program (EIP) in the Lake Tahoe Basin since inception of the program and the East Incline Village Phase I project is the next in the series of Washoe County's EIP water quality improvement projects. This grant amendment increases funding from Nevada Division of State Lands (NDSL) for the East Incline Village Phase I Water Quality Improvement Project from \$750,000 to \$1,500,000. The project was approved in concept by the Board of County Commissioners (Board) on November 12, 2013, with total project costs estimated at \$3.0 million. The project will also utilize U.S. Forest Service funds in the amount of \$1,500,000. The additional \$750,000 from NDSL eliminates the need to use Washoe County TRPA Water Quality Mitigation Funds unless project costs exceed the estimated \$3.0 million. Any portion of the TRPA Mitigation Funds which are not needed will remain available for future use by the County.

County Priority/Goal supported by this item: Sustainability of our financial, social and natural resources.

PREVIOUS ACTION

March 25, 2014, the Board accepted Tahoe Regional Planning Agency Water Quality Mitigation Funds for the East Incline Village Phase I Water Quality Improvement Project in the amount of \$750,000.

AGENDA ITEM # 11

March 11, 2014, the Board accepted and approved a Federal Financial Assistance Award from the USDA Forest Service for the East Incline Village Phase I Water Quality Improvement Project in the amount of \$1,500,000.

December 18, 2013, the Board accepted a Grant Award from the Nevada Division of State Lands for East Incline Village Phase I Water Quality Improvement Project in the amount of \$750,000.

November 12, 2013, the Board approved in concept the East Incline Village Phase I (EIP No. 01.01.01.46) Water Quality Improvement project; authorized the request of grant funds from the State of Nevada, the U.S. Forest Service and TRPA; and appointed the Director of Community Services Department as agent for Washoe County.

BACKGROUND

GRANT AWARD SUMMARY

Project/Program Name: East Incline Village Phase I Water Quality Improvement Project

Scope of the Project: A specialized engineering firm will be selected to perform project planning, permitting, environmental assessment, design and specialized construction management services. The Engineering and Capital Projects Division may provide grant coordination, project oversight, construction management and inspection services. The project may include drainage pipes, concrete curb and gutter, channel improvements, retaining walls, catch basins, infiltration basins, storm water treatment vaults, and re-vegetation to control erosion to improve water quality.

Benefit to Washoe County Residents: Improvement in water quality and clarity of Lake Tahoe, through erosion control and various improvements to storm drainage and runoff discharging into Lake Tahoe. The project will help Washoe County meet requirements of TMDL (Total Maximum Daily Load).

On-Going Program Support: Washoe County will be responsible for monitoring and for maintenance of any facilities constructed for a minimum of 20 years. The County's costs for maintenance are not expected to be materially higher than they are currently and some of the proposed improvements may actually lower the annual maintenance costs.

Award Amount: \$750,000 for Amendment #1 (Total of \$1,500,000)

Grant Period: November 19, 2013 – March 31, 2017

Funding Source: Nevada Division of State Lands

Pass through From: N/A

CFDA Number: N/A

Grant ID Number: FTPLT 13-002 Amendment #1

Match Amount and Type: \$1.5 million from the U.S. Forest Service

Indirect Cost Rate (applicable to the award):

Grant's recoverable indirect cost rate:

- Indirect costs are fully recoverable
- Sponsor does not allow for indirect cost recovery
- Sponsor has limited indirect cost recovery at ___ %
- Sponsor requires indirect Cost Rate Approved by Cognizant Agency

This grant, with the amendment, allows up to 5% of the award amount (approximately \$71,428) to be used toward administrative costs of the grant and in lieu of indirect cost recovery.

Special Terms & Conditions: The project must conform with all State and local laws, regulations, ordinances and policies as outlined in the Funding Agreement.

Sub-Awards and Contracts: The project will require contracts for professional engineering services as well as construction. The Community Services Department will select a specialized Engineering firm from an established list based on a previous Request for Qualifications. The Department will advertise and solicit bid proposals for the construction portion of the project in accordance with Washoe County policy.

FISCAL IMPACT

Should the board accept this grant award and approve these amendments, the adopted budget will be increased by \$750,000 in both revenues and expenditures in the following accounts:

Cost Object	G/L Account	Amount
IN19053	432100 – State Grants	\$ 750,000.00
PW920589	781001 – Land Improvement Capital	\$ 750,000.00

The total cost of the project is estimated at \$3 million. The balance of \$1.5 needed for the project will come from the U.S. Forest Service. Prior to receiving this amendment from NDSL, the County approved the use of TRPA Water Quality Mitigation funds in the amount of \$750,000 to fully fund the project. The additional \$750,000 from NDSL eliminates the need to use the County's TRPA Water Quality Mitigation Funds unless project costs exceed the estimated \$3.0 million.

This is a reimbursement grant. Project expenses will be paid from the Capital Improvement Fund (402) and reimbursement may be requested as often as monthly. This grant allows up to 5% of the award amount (approximately \$71,428) for administrative costs of the grant and in lieu of indirect cost recovery.

RECOMMENDATION

It is recommended the Board of County Commissioners accept Amendment #1 to a Grant Award from the Nevada Division of State Lands for the East Incline Village Phase I Water Quality Improvement Project [in the amount of \$750,000] (for a total of \$1,500,000 from NDSL with the matching funds of \$1,500,000 funded through a U.S. Forest Service Grant) retroactively for the period of November 19, 2013 through March 31, 2017; and if accepted, authorize the Director of

Community Services Department to execute the Funding Agreement; and direct the Comptroller's Office to make the necessary budget adjustments.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be: "Move to accept Amendment #1 to a Grant Award from the Nevada Division of State Lands for the East Incline Village Phase I Water Quality Improvement Project [in the amount of \$750,000] (for a total of \$1,500,000 from NDSL with the matching funds of \$1,500,000 funded through a U.S. Forest Service Grant) retroactively for the period of November 19, 2013 through March 31, 2017; and if accepted, authorize the Director of Community Services Department to execute the Funding Agreement; and direct the Comptroller's Office to make the necessary budget adjustments."

AMENDMENT #1
REVISED 12-11-14

A Project Funding Agreement Between the State of Nevada
Acting By and Through Its Division of State Lands and the
Fund to Protect Lake Tahoe (Grantor)

901 S. Stewart Street, Suite 5003
Carson City, NV 89701
phone: (775) 684-2720
Fax: (775) 684-2721

And

Washoe County – Community Services Department
(Grantee)

1001 East 9th Street
PO Box 11130
Reno NV 89520
phone: (775) 328-2040
Fax: (775) 328-3699

WHEREAS; Nevada's legislature in 2009 authorized the issuance of general obligation bonds in the face amount of \$100,000,000 between July 1, 2009 and June 30, 2020 to carry out a portion of the State's share of the Environmental Improvement Program; and

WHEREAS the Nevada legislature authorized the state land registrar to establish a program for the protection of the Lake Tahoe Basin including without limitation: air and water quality; restoration and protection of natural watercourses, wetlands, fisheries, vegetation and forests, prevention and control of erosion and the enhancement of recreational and tourism opportunities in the basin; and

WHEREAS, NRS 321.5956(3) authorizes the state land registrar to enter into a funding agreement or other agreement, within the limits of available money, with non-profit organizations, and other persons or entities to carry out a program to preserve, restore and enhance the natural environment of the Lake Tahoe Basin; and

WHEREAS, programs to enhance, preserve and restore the natural environment of the Lake Tahoe basin may be conducted on public property and privately owned property with the consent of the owner of the property as long as public money is only expended for a public purpose and the public interest is adequately protected; and

WHEREAS, the state land registrar has determined this project is both necessary and in the best interests of the natural environment at Lake Tahoe;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Funding Agreement shall not become effective until and unless approved by the state land registrar and the authorized Washoe County Community Services Department representative.
2. **DEFINITIONS.** "Grantor" means the Nevada Division of State Lands, its officers and employees. "Grantee" means the Washoe County Community Services Department.
3. **FUNDING AGREEMENT TERM.** This Funding Agreement shall be effective from November 19, 2013 to March 31, 2017, unless sooner terminated by either party as specified in paragraph 9 herein.
4. **NOTICE.** All notices or other communications required or permitted to be given under this Funding Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified above.

5. **INCORPORATED DOCUMENTS.** The parties agree that the responsibilities, and duties of each party as well as the scope of the project shall be specifically described; this Funding Agreement incorporates the following attachments in descending order of constructive precedence;

ATTACHMENT A: Amendment #1 - Revised 12-11-14 - Washoe County – East Incline Village Phase I, EIP # 01.01.01.46 – Erosion Control, Water Quality Improvement Project (FTPLT 13-002) Summary & Special Conditions

ATTACHMENT B: Tahoe Bond Act Regulations – LCB File No. R040-12-02, NAC 321.300-365.

ATTACHMENT C: Grant Application submitted by Kris Klein, PE, Senior Licensed Engineer, Washoe County Community Services Department, Engineering and Capital Projects Division

6. **COST:** Grantor agrees to provide a maximum of \$1,500,000.00 of the funds actually expended and necessary for the construction of the described project contingent upon Grantee's compliance with all of the terms and conditions herein. See attachment A for description.

7. **ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this Funding Agreement are also specifically a part of this Funding Agreement and are limited only by their respective order of precedence and any limitations specified.

8. **INSPECTION & AUDIT.**

a. **Books and Records.** Grantee agrees to keep and maintain under general accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to Grantor, or its authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. **Inspection & Audit.** Grantee agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices, financial statements and supporting documentation shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Grantee where such records may be found by Grantor's designated representative.

c. **Period of Retention.** All books, records, reports, and statements relevant to this Funding Agreement must be retained a minimum of three years. The retention period runs from the date of Grantor's last grant payment, or from the date of termination of the Funding Agreement, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

9. **FUNDING AGREEMENT TERMINATION.**

a. This Funding Agreement is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature. The Grantor may terminate this Funding Agreement, and Grantee waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the funding from Grantor is not appropriated or is withdrawn, limited, or impaired.

b. Grantor may only terminate this project agreement as specified in paragraph 18 of the incorporated attachment A, the project funding agreement. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Grantee to provide the goods or services required by this Funding Agreement is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or if Grantee becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or if it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Grantee, or any agent or representative of Grantee, to any officer or employee of the State of Nevada with a view toward securing a funding agreement or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the

performing of such funding agreement, then this funding agreement may be immediately terminated by the Grantor.

- i. Time to Correct. Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph (4), and the subsequent failure of the defaulting party within 30 calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.
- ii. Winding Up Affairs Upon Termination. In the event of termination of this Funding Agreement for any reason, the parties agree that the provisions of this paragraph survive termination:
 - aa. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Funding Agreement. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
 - ba. Grantee shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Grantor;
 - ca. Grantee shall execute any documents and take any actions necessary to effectuate an assignment of this Funding Agreement if so requested by the Grantor;

10. LIMITED LIABILITY. The State will not waive and intends to assert available NRS chapter 41 liability limitations in all cases.

11. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Funding Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Funding Agreement after the intervening cause ceases.

12. INDEMNIFICATION. To the fullest extent permitted by law, Grantee shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of Grantee, its officers, employees and agents for this funding agreement.

13. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Funding Agreement or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

14. SEVERABILITY. If any provision contained in this Funding Agreement is held to be unenforceable by a court of law or equity, this Funding Agreement shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Funding Agreement unenforceable.

15. ASSIGNMENT. Grantee shall neither assign, transfer nor delegate any rights, obligations or duties under this Funding Agreement without the prior written consent of the State.

16. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents received from Grantee may be open to public inspection and copying. The State will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

17. FEDERAL FUNDING. In the event federal funds are used for payment of all or part of this Funding Agreement:

- a. Grantee certifies, by signing this Funding Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
- b. Grantee shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

c. Grantee shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offer for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

18. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Funding Agreement on behalf of each party has full power and authority to enter into this Funding Agreement. Grantee acknowledges that as required by statute or regulation this Funding Agreement is effective only after approval by the Division of State Lands Administrator and only for the period of time specified in the Funding Agreement. Any services performed by Grantee before this Funding Agreement is effective or after it ceases to be effective are performed at the sole risk of Grantee.

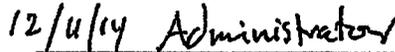
19. GOVERNING LAW; JURISDICTION. This Funding Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. Grantee consents to the jurisdiction of the Nevada district courts for enforcement of this Funding Agreement.

20. ENTIRE FUNDING AGREEMENT AND MODIFICATION. This Funding Agreement and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Funding Agreement specifically displays a mutual intent to amend a particular part of this Funding Agreement, general conflicts in language between any such attachment and this Funding Agreement shall be construed consistent with the terms of this Funding Agreement. Unless otherwise expressly authorized by the terms of this Funding Agreement, no modification or amendment to this Funding Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Funding Agreement to be signed and intend to be legally bound thereby.



Charles Donohue-Grantor Signature
Division of State Lands-Administrator



Date Title



David Solaro-Grantee Signature
Washoe County Community Services Department - Director



Date Title

ATTACHMENT A

NEVADA DIVISION OF STATE LANDS

FUND TO PROTECT LAKE TAHOE
AMENDMENT #1 to the PROJECT FUNDING AGREEMENT for the
East Incline Village Phase I Water Quality Improvement Project (FTPLT 13-002)

Therefore, the East Incline Village Phase I, FTPLT 13-002, is hereby amended to change the termination date from December 31, 2017 to March 31, 2017 and increase the State Share of the project by a total of \$750,000.

GRANTEE: Washoe County Community Service Department

Project Number FTPLT 13-002

Project Title: East Incline Village Phase I

Period Covered By This Agreement: November 18, 2013 – March 31, 2017

Tax ID Number: 88-6000031

Project Cost:

A. Estimated Project Cost (Planning, Design and Construction)	\$ 2,928,571.43
B. Local Share of Project Cost	\$ 1,500,000.00
C. State Share of Project Cost	\$ 1,428,571.43
D. State Share of Administration costs (5% of C)	\$ 71,428.57
E. Total State Grant (C plus D)	\$ 1,500,000.00

Refer to A: Planning, Design and Construction Costs are currently estimated at \$2,928,471.40

Refer to B: Washoe County is responsible ACTUAL costs of planning, design, construction and construction engineering. This is currently estimated to be \$1,500,000.00. However, the estimate will adjust to actual expenditures of project planning, design, construction and construction engineering.

Refer to C: The State is responsible for ACTUAL costs of planning, design, construction and construction engineering. This is currently estimated to be \$1,428,571.43. Construction and construction engineering costs will adjust to actual expenditures, not to exceed \$1,428,571.43 unless the grant is amended by the Nevada Division of State Lands.

Refer to D: Administrative costs – 5% of State Share of Project Cost, is estimated at \$71,428.57. The County is not required to match any portion of this 5%. These administrative costs will adjust to actual expenditures of the project design and construction, not to exceed \$71,428.57 unless grant is amended by the State. The County will receive 5% of the total State

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Share of the Project to aid in covering administrative costs of the County directly related to this project.

Project Scope (Brief Description of Project)

Overall goals of the project are to plan, design and implement a Water Quality Improvement Project to improve water quality, aid Washoe County in achieving Total Maximum Daily Load (TMDL) load reductions and to achieve the natural resource objectives of the Lake Tahoe Basin (i.e. Tahoe Regional Planning Authority (TRPA) thresholds). The project may include drainage pipes, concrete curb and gutter, channel improvements, retaining walls, catch basins, infiltration basins, stormwater treatment vaults and revegetation to control erosion and improve water quality.

TERMS AND CONDITIONS

In addition to the terms and conditions listed on pages 2 – 5, the GRANTOR & GRANTEE mutually agree to perform this Agreement with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps and assurances produced during the planning and design process and hereby made a part hereof. This agreement is made and entered into between the State of Nevada, represented by the Nevada Division of State Lands (GRANTOR) and Washoe County Community Services Department (GRANTEE).

1. In the event the GRANTEE does not make available to the GRANTOR all necessary information to finalize the project agreement within (6) months from the beginning date of this Agreement; this Agreement is null and void.
2. The GRANTEE hereby promises, in consideration of the promises made by the GRANTOR herein, to execute the project described above in accordance with the terms of the Agreement.
3. The GRANTEE agrees that 48.8% of all restored land coverage associated with this project, within each land capability, will be credited to the GRANTOR for use in its land bank program.
4. The Project shall be operated and maintained by the GRANTEE for at least 20 (twenty) years after Project completion. Project elements lasting longer than 20 years shall be maintained for the life of the structure. The GRANTEE shall submit a yearly maintenance report that identifies the facilities maintained (including number of times per year), volume of material removed and general breakdown of maintenance costs. The GRANTOR may require repayment of a pro-rata share of the grant amount for any period of time that the project will not perform within design criteria and specifications due to a lack of maintenance.
5. Work performed prior to the period specified in the "Project Agreement" may be eligible for reimbursement through Tahoe Bond Act provided:
 - a. The applicant provides documentation detailing the work performed;

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- b. The applicant provides documentation that the work performed related directly towards project implementation;
 - c. The work performed is considered eligible for reimbursement per regulations NAC 321.300 through NAC 321.365; and
 - d. The total grant amount specified in the project agreement does not increase.
6. The GRANTOR shall receive as-built drawings completed by the Applicant showing all facilities and structures constructed as part of the Project including summary report with information requested by the GRANTOR. This information will need to be submitted electronically, in addition to the hard copy.
 7. Requests for funds exceeding this grant amount requires an amendment to this agreement and must be approved by the GRANTOR.
 8. Grant payments are on a reimbursement basis only. Requests for reimbursements must utilize the "Outlay Report and Request for Reimbursement for Construction Program" provided by the GRANTOR. All reimbursements must include supporting documentation, including, but not limited to, invoices, receipts details outlining the basis for the expenditures, and the signature of the official responsible for approving the expenditures. The GRANTOR reserves the right to request any additional information, related to project expenses that the GRANTOR determines is necessary to process a grant payment.
 9. The Nevada Division of State Lands shall be billed at least quarterly through the period of this agreement.
 10. The GRANTOR may audit project records or it's designate. All records must be retained a minimum of 3 (three) years after the completion of work on the Project. The GRANTOR reserves the right to require that the records be kept for a longer period of time.
 11. The GRANTOR will be invited to attend all major project issue meetings:

Division of State Lands
Attn: Holly Holwager
Water Quality Program Manager
901 South Stewart Street, Suite 5003
Carson City, NV 89701
(775) 684-2725
 12. The GRANTOR will be notified immediately of any changes regarding the cost of the project or the scope of work.
 13. The GRANTEE is responsible for obtaining all permits, easements and other private and governmental agency approvals required for the Project prior to the commencement of construction.
 14. To the fullest extent permitted by law, the GRANTEE agrees to indemnify, hold harmless and defend the GRANTOR, it's officers, employees, agents and invitees from and against all

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liabilities, claims, actions, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of any alleged negligent or willful acts or omissions of the GRANTEE, its officers, employees and agents.

15. The failure of either party to enforce any provision of the Agreement shall not be construed as a waiver of limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.
16. This Agreement may be modified or amended if the amendment is made in writing and is signed by both parties.
17. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
18. Termination: The GRANTOR may terminate this Agreement for reason of default by the GRANTEE. Any of the following events shall constitute default:
 - a. Termination of the grant by reason or fault of the GRANTEE;
 - b. Failure by the GRANTEE to observe any of the covenants, conditions, or warranties of this Agreement and its incorporated provisions;
 - c. Failure by the GRANTEE to make progress on the project within the Period covered by this agreement;
 - d. Unsatisfactory financial conditions of the GRANTEE which endanger the performance of the grant; and/or
 - e. Delinquency by the GRANTEE in payments to contractors, except for those payments to contractors which are being contested in good faith by the GRANTEE.
 - f. If the Project is not completed, the GRANTEE is required to reimburse the GRANTOR for funds expended for those portions of the Project that will not stand on their own, as determined by the GRANTOR.
 - g. The GRANTOR shall give notice to the GRANTEE if the GRANTEE is in default in the performance of any of the duties of the GRANTEE described in this agreement. The GRANTEE shall have 30 days from receipt of notice to remedy the default, and if the GRANTEE cannot remedy the default within such period of time, the GRANTOR may terminate this agreement. The right of the GRANTOR to terminate this agreement shall not impair any other rights or remedies at law or equity the GRANTOR may have against the GRANTEE under this agreement or under the law. No waiver of any default by the GRANTOR under this contract shall be held to be a waiver of any other subsequent default by the GRANTEE. All remedies afforded under this contract are cumulative; this is in addition to every other remedy provided therein or under the law.
19. The GRANTEE will furnish progress reports and such other information as the grantor agency may require. At a minimum the GRANTOR will be notified and given the opportunity to review the project design and construction at multiple project milestones:

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- Project initiation after grant award
 - Completion of 25%, 50% and 90% of the Project design
 - Final design, including report, prior to advertisement and award of construction contract
 - Completion of 25%, 50%, and 75% of construction
 - Project completion prior to release of contractor
20. The GRANTEE will provide and maintain competent and adequate engineering supervision during the design phase of the project, as well as inspection at the construction site to insure that completed work conforms to the approved plans and specifications.
21. The laws of the State of Nevada shall govern this Agreement.